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this Memorandum Decision shall not be  
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establishing the defense of res judicata,  
collateral estoppel, or the law of the  
case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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MICHAEL D. SCHACKART,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 37A04-0702-CR-99

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APPEAL FROM THE JASPER CIRCUIT COURT  
The Honorable John D. Potter, Judge  
Cause No. 37C01-0504-FD-169

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**October 24, 2007**

**MEMORANDUM DECISION – NOT FOR PUBLICATION**

**MATHIAS, Judge**

Michael D. Shackart (“Shackart”) appeals his conviction in Jasper Circuit Court of Class D felony operating a vehicle after being adjudicated a habitual traffic violator (“HTV”). He raises the following restated issue: whether the trial court improperly admitted evidence of Shackart’s status as a HTV. We affirm.

### **Facts and Procedural History**

Late on the evening of April 12, 2005, Wheatfield Deputy Marshal Brandon Napier (“Deputy Napier”) observed a “gray Toyota passenger car” bearing an out-of-county license plate. Jury Trial Tr. p. 61. Although he had observed no traffic violations or suspicious activity, Deputy Napier called in to dispatch for a license plate number check on the Toyota. Upon learning that the license plate number was registered to Shackart for a 1985 Dodge van, Deputy Napier requested assistance from another officer and stopped Shackart. Deputy Napier then learned that Shackart’s driving privileges had been suspended as a HTV and arrested Shackart for driving while suspended.

The State charged Shackart with Class D felony operating a vehicle as a HTV. A jury trial commenced on September 5, 2006. Shackart’s attorney moved to suppress evidence of Shackart’s HTV status, which the trial court denied. Shackart was convicted in absentia and sentenced to three years with one and a half years suspended and the balance of the sentence to be served on work release. Shackart now appeals.

### **Discussion and Decision**

Shackart originally challenged the admission of evidence of his HTV status through a motion to suppress, but appeals following a completed trial challenging its admission at trial. “Thus, the issue is ... appropriately framed as whether the trial court

abused its discretion by admitting the evidence at trial.” Washington v. State, 784 N.E.2d 584, 587 (Ind. Ct. App. 2003). Our standard of review of rulings on the admissibility of evidence is essentially the same whether the challenge is made by a pre-trial motion to suppress or by trial objection. Ackerman v. State, 774 N.E.2d 970, 974-75 (Ind. Ct. App. 2002), trans. denied. We do not reweigh the evidence, and we consider conflicting evidence most favorable to the trial court's ruling. Collins v. State, 822 N.E.2d 214, 218 (Ind. Ct. App. 2005), trans. denied. However, we must also consider the uncontested evidence favorable to the defendant. Id.

Shackart contends that evidence of his HTV status should have been suppressed as the result of a search unsupported by reasonable suspicion. First, he challenges the officer’s check of his license plate number. However, the mere running of a random license plate check is not a constitutional search violation. See Wilkinson v. State, 743 N.E.2d 1267, 1270 (Ind. Ct. App. 2001), trans. denied (citing People v. Brand, 71 Ill. App. 3d 698, 28 Ill. Dec. 83, 390 N.E.2d 65 (1979); State v. Donis, 157 N.J. 44, 723 A.2d 35 (1998)).

Shackart also argues that the traffic stop was impermissible, and in support of this contention, cites three cases involving stops following license plate checks. However, Shackart’s reliance on these cases is misplaced. In Wilkinson v. State, 743 N.E.2d 1267 (Ind. Ct. App. 2001), we addressed a stop following a random license plate number check which revealed that the driver to whom the plate was registered had a suspended license and also provided a physical description of that person. State v. Ritter, 801 N.E.2d 689 (Ind. Ct. App. 2004), trans. denied, involved a stop under circumstances in which the

officer knew that the registered owner of the vehicle in question had a suspended license, but could not see the driver to verify if the driver matched the description of the registered owner. And in Kenworthy v. State, 738 N.E.2d 329 (Ind. Ct. App. 2000), trans. denied, the officer stopped a vehicle registered to a person whose driving privileges the officer knew had been suspended.

In contrast, here the license plate check revealed that the license plate number on the gray Toyota was registered to a different make and model of vehicle. With this information, Deputy Napier had a reasonable suspicion to stop Shackart's car in order to determine if it was stolen or improperly registered. See Smith v. State, 713 N.E.2d 338, 342 (Ind. Ct. App. 1999), trans. denied (when a license plate check revealed a mismatched license plate, officer had reasonable suspicion to believe that defendant's vehicle could be stolen or retagged).

As such, we cannot conclude that the trial court abused its discretion when it admitted evidence of Shackart's HTV status.

Affirmed.

NAJAM, J., and BRADFORD, J., concur.